Regulatory Impact Statement

The Shift from Foreign Investment Licensing to Registration

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PMRC Prime Minister's Research Commission

UNDP Viet Nam

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** This report is indicative of the format that could be used to prepare a RIS: it is not an actual RIS. Direct involvement of those directly involved in the policy/legal drafting process, and more consultations and analysis, would be needed to develop an actual RIS. The report was prepared as desk study in a short period drawing on data and analysis VIM's (July 2005) draft study on the impact of the UEL and CIL.*

Abbreviations

CIEM	-	Central Institute for Economic Management
CIL	-	Common Investment Law
EPZ	-	Export Processing Zone
FDI	-	Foreign Direct Investment
FIE	-	Foreign Invested Enterprises
GTZ	-	German Technical Cooperation
IZ	-	Industrial Zone
MPI	-	Ministry of Planning and Investment
MFN	-	Most Favored Nation
OECD	-	Organization for Economic Cooperation and Development
PMRC	-	Prime Minister's Research Council
RIA	-	Regulatory Impact Assessment
RIS	-	Regulatory Impact Statement
UNDP	-	United Nations Development Programme
VIM	-	Viet Nam Institute of Management
UEL	-	Unified Enterprise Law
WTO	-	World Trade Organization

Foreword

The Prime Minister Research Commission (PMRC) is in the process of developing a methodology for introducing Regulatory Impact Assessments (RIAs) to institutionalize systematic approaches to formally assessing the impact of regulations on businesses and other stakeholders. The goal is to improve regulatory quality to ensure that regulations are both (i) in the national interest and (ii) facilitate the development of a competitive market economy. The PMRC requested GTZ and UNDP support in this work.

The aim of this desk study is to provide an example of a possible format for Regulatory Impact Statements (RISs) in Viet Nam. The example presented on analysis conducted by the PMRC on impacts of the proposed Unified Enterprise Law (UEL) and the Common Investment Law (CIL). The format follows initial draft RIA guidelines prepared for the PMRC with GTZ support. It is hoped that this example will help the PMRC assess whether the draft guidelines are workable, and assist in further improving the guidelines.

The major benefits of conducting regulatory impact assessments derives from the systematic processes of analysis and stakeholder consultations to identify major impacts of regulations on key stakeholders. That is, RIA helps increase the transparency of policy making processes. The adoption of RIA processes in other countries has helped to improve regulatory quality and reduce unexpected negative impacts of new regulations.

A key challenge for PMRC and other national stakeholders like the Ministry of Justice is to develop approaches to RIA that are workable in Viet Nam. Most OECD countries have adopted relatively simple (but credible) methodologies to assess regulatory impacts. Hopefully, this report will help PMRC and others in developing credible and workable approaches that can be readily understood by policy makers and informed readers.

Introduction

1. The Government initiated drafting of the new Unified Enterprise Law (UEL) and the Common Investment Law (CIL) in 2004 with the aim of increasing business investment and meeting obligations under various international and bilateral, regional agreements. This (indicative) RIS[1] addresses a subset of this overall reform, namely the shift from a foreign investment approval and licensing process, to more automatic registration of foreign investment enterprises that comply with laws governing foreign investment.[2]

2. Proposed changes to the UEL and CIL need to be approved by the National Assembly. Draft measures already have been discussed with The Standing Committee, and other members, of the National Assembly. The National Assembly is expected to approve the amended laws in end - 2005.

Description of the Consultation Process

3. The Government has organized a series of meetings to discuss the proposed reforms with the domestic and business community, and other stakeholders, during the last year. Domestic business associations have been regularly consulted and their representatives have been active in the drafting process. Discussions of key issues have been held with major foreign chambers of commerce in Viet Nam. Proposed reforms have also been a subject of discussion at Viet Nam Business Forum meetings. The drafting committee recently presented drafts of the proposed changes and key issues to the National Assembly.

4. The Viet Nam Institute for Management (with support from GTZ and UNDP) organized surveys and interviews with a range of stakeholders to help assess the costs and benefits of proposed changes on business and to Government agencies responsible for business registration and licensing.

5. Consultations should usually be held to discuss the draft of a real RIS, to review key findings and assumptions. In this example, it would be important for stakeholders to critically review details of the key reforms, and the assumptions concerning the costs and benefits of these reforms. One aim of an RIS is to present the major costs and benefits in an easily understandable form, so that estimates can be subject to public scrutiny and adjusted as necessary. The estimates of costs and benefits in this RIS could certainly benefit from additional scrutiny by key stakeholders.

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1 The aim is to show a possible structure for an RIS. It should not be read as an actual RIS.

2 These laws will apply to all types of enterprises operating in Vietnam, regardless of their ownership and nationality. Viet Nam presently has different laws to govern different types of enterprises (classified by economic sectors, ownership structure or nationality). The Enterprise Law (effective January 2000) regulates domestic enterprises which are registered and run in the form of sole proprietorship, liability limited company, partnership or joint-stock company. State enterprises are subject to the State Enterprise Law (effective January 2003). The Cooperative Law (amended 2003) governs cooperatives. The Foreign Direct Investment Law was first introduced in 1987 and has since been revised 4 times (1990, 1992, 1996 and 2000). The FDI Law provides a legal framework for licensing, incorporation, operational scope, and investment incentives applicable to foreign invested enterprises (FIEs). The Law on the Promotion of Domestic Investment (passed 1995: revised 1999) addresses investment incentives applicable to domestic business.

Purpose and Nature of Proposed Regulatory Change

Statement of the problem:

6. Despite gradual improvements in the regulatory environment, many potential foreign investors complain about the costs and delays involved in securing approval for foreign invested projects, even in areas that have been identified as priority areas for investment by the Government. There are also complaints that the discretion exercised by officials -- in approving foreign investments and in deciding what incentives are available to each project -- are providing unnecessary opportunities for corruption. Similar complaints have been made by potential domestic joint-venture partners of foreign investors. More detailed analysis of the problem can be found in a recent PMRC study[3].

7. The Government has recently implemented a series of reform that have helped reduce barriers to new foreign investment. And substantial increases in FDI approvals are projected for 2005. However, ongoing complaints suggest that more fundamental changes are needed to the FDI approval process. Experience in implementing the Enterprise Law reform demonstrated the potential positive impacts of moving, from an "asking" and "approval" system, to a registration system that is automatic for enterprises meeting pre-determined criteria.

Review any prior actions:

8. Members of the PMRC and the law drafting committees have met with many business representatives to help identify optimal solutions. MPI studies on the experience of implementing the Enterprise Law reform have also helped in formulating recommend changes. The Prime Minister issued Guiding Principles of the UEL and CIL as the basis for the drafting of the two laws in late 2004 and the National Assembly agreed, in December 2004, to include the two laws in its law-making agenda for 2005.

Economic, Social and/or Environmental Rationale for Intervention:

9. Existing regulations are aimed at limiting FDI in areas considered to be of strategic interest to Viet Nam. However, it is also increasingly apparent that Government strategic objectives might be realized via less interventionist approaches, with less cost to the economy and society in terms of investment and employment foregone[4]. A further imperative for change is that it would help support ongoing efforts to join the World Trade Organization[5]. The ultimate goal is to increase investment and employment.

Objective of regulatory action:

10. The aim of the regulatory action is to increase foreign direct investment approvals and inflows from the period of the enactment of the law. Substantial benefits in terms of increased employment, and in terms of additional investment opportunities for domestic businesses, are expected within one year of enforcement of the new regulations.

3 PMRC (July 2005), Draft Report on Regulatory Impacts of UEL and CIL.
4 e.g., as demonstrated by recent experiences with the 2000 Enterprise Law.
5 Differential treatment to entities based on ownership under the different business and investment laws is seen as a crucial impediment to WTO membership.

Statement of the proposed regulation and alternatives:

11. The proposed regulation involved moving from a system of foreign investment licensing to a system of just registering foreign investment projects that meet specified criteria[6]. The replacement of the existing investment licensing mechanism with a nation-wide online business registration system that is applied in a consistent and unified manner on all types of enterprises will help to reduce administrative costs, lower the risk of corruption, improve the service of public agencies and improve the image of a business friendly government. Such a change will represent an important contribution by the Government to improving the enabling environment for business.

12. Other options to the proposed reform would be to "do nothing" (with costs in terms of investment and jobs), or to remove all approval requirements with respect to foreign investment.

Review Options for Resolving the Problem

List a range of options

13. Options considered included:

(i) Do nothing. Continue with existing regulations.

(ii) Remove all licensing and registration requirements for FDI.

(iii) Shift from FDI licensing to FDI registration.

Briefly assess the risks of each option

Do nothing. Continue with existing regulations

14. Remarkable progress has been made in attracting FDI under the existing regulatory arrangements. Nevertheless, "doing nothing" (i.e., of not taking concrete steps to address the ongoing concerns of foreign investors) would involve considerable risks, including:

- Competition for FDI is increasing: other countries are improving the regulatory environment. Viet Nam needs to continually listen to domestic and foreign investors to identify approaches to further improve the regulatory environment.
- Current arrangements impose differential treatment between domestic and foreign investors. These differences need to be reduced to meet international and bilateral agreements and to facilitate WTO accession.
- Continuing corruption could undermine social stability and undermine Viet Nam's competitive position as a desirable destination for FDI inflows.

Remove all licensing and registration requirements for FDI

15. This option would facilitate new FDI inflows, but has several risks including:

- It would be difficult to monitor FDI inflows and to ensure compliance with regulations governing FDI.
- Other businesses, and potential investors and lenders, may face difficulty obtaining basic information about foreign investors.

6 Criteria has still to be finalized, but initial discussions suggested include: (i) not being listed in the list of Group A Projects; (ii) being relevant to an approved product development or sectoral development plan (or otherwise as approved by the relevant line ministry); and (iii) not being listed in the List of Projects Requiring Environment Impact Assessment. In addition, one of the three conditions may need to be met: (i) more than 80% of production is exported; (ii) located in an industrial zone, or has been listed as a priority project for FDI; and/or (iii) an investment in the manufacturing sector of up to USD 5 million. (Source: PMRC (2005)).

- Such a major policy change may be unacceptable to policy makers.

Shift from FDI licensing to FDI registration

16. Reduced power to enforce compliance is an often cited reason for not moving to a registration system. However, post-approval enforcement has been a major issue under existing arrangements, and a simplified approval process will allow scarce administrative capacity for focus more on enforcement[7].

Compliance and enforcement

17. Monitoring compliance and enforcement of business registration will be much easier than under the current licensing arrangements and opportunities for corruption during start-up will be reduced. The challenge will be to strengthen broader compliance with national laws during establishment and ongoing operations of FDI projects.

Economic Analysis of Feasible Options

18. This section provides indicative estimates of the major immediate benefits and costs of the proposed change, and briefly describes important flow-on benefits. A key aim is to evaluate whether the proposed change is in the national interest (i.e., to assess the net economic impact of the change on the whole economy after taking account both private and public costs and benefits).

19. Given that the second option (remove all licensing and registration requirements for FDI) is not considered a politically viable option, the focus of this analysis is on the benefits and costs of shifting from a FDI licensing, to a FDI registration system.

Sectors and groups affected

20. The most immediate beneficiaries of the proposed change will be potential new foreign investors, and existing foreign investors who are planning to expand operations. Domestic business will also benefit because of business generated by foreign investors (e.g. construction, sub-contract work, providing inputs and other services for foreign investors).

21. Investments should help reduce poverty by increasing employment opportunities. While proposed reforms may help encourage more dispersed investments (see below), most FDI projects will continue to be concentrated in larger urban areas. The remote rural areas (areas with higher concentrations of ethnic communities) will gain fewer benefits from the proposed reforms than people in or near larger urban centres. Thus, increased FDI inflows are likely to contribute to widening disparities in income gaps between rural and urban communities, and between kinh and ethnic minority communities.

22. On the other hand, smaller foreign investors will stand to gain relatively more than larger investors, because there is a high fixed cost element involved in current business licensing requirements. Smaller FDI projects tend to be concentrated in agro-processing, light industry and some service industry investments which are linked to local resource endowments. Thus, reduced barriers to smaller FDI

7 More research is needed on compliances issues related to implementation of the Enterprise Law. However, the general impression is that the shift to a registration system for domestic businesses did not result in any overall increase in compliance problems.

projects could help facilitate a more geographically balanced distribution of foreign investment.

23. Consumers (especially in urban areas) are expected to benefit from the impact of increased competition and the introduction of new technology in improving product quality and reducing prices.

24. No tangible impacts are expected on non-government organizations and/or business and community organizations.

25. The reforms should help reduce Government administrative costs, but additional short-term expenditure will be required to develop new systems, and to re-train staff (see cost section for details).

Analysis of costs and benefits

Some un-quantified changes in Government costs [8]

26. Current business licensing costs impose considerable cost to the Government in terms of staff time of key personnel. The appraisal of a Group A Investment Project requires the involvement of 8-10 ministries, which each contribute about 7 experts to provide comments. Some 50-70 people maybe involved in appraising each Group A project. If other experts and senior management from MPI and the Government Office are included, some 100 people may be involved. This process is expected to be streamlined under the proposed reforms.

27. The appraisal of a Group B Investment Project is less complicated, but still requires approximately 60 experts from MPI and other ministries and agencies to be involved. Among them, it is estimated that 10 are from the Foreign Investment Agency (MPI), 5 from provincial People's Committees, and the rest from other relevant ministries and agencies each contributing 7 experts. This appraisal process will be eliminated for many projects under the proposed reforms. Staff resources will be freed to focus more on ensuring that FDI is implemented in compliance with national laws.

Costs to Government in adjusting from licensing to registration

28. The PMRC study surveyed representative public sector agencies responsible for business registration in order to assess the major investments that these agencies would need to undertake to implement the new system, and the cost of these investments. The PMRC study identified the following incremental investments:

1. Implementing study on institutional arrangement for the expansion and improvement of the business registration system which is operating under the existing Enterprise Law; this will include the development of an enterprise database which is well-coordinated with the database on intellectual property.
2. Train staff from the Business Registration Departments and FDI Divisions on issues related to implementation of UEL and CIL.
3. Invest in additional equipment, office, hardware, and other facilities for business registration departments.

29. The total costs of these investments are estimated at USD 27.8 million (see table below). The costs are expected to be incurred during the first 2 years after the laws are promulgated (USD 17.1 million in Year 1: USD10.7 million in Year 2).

8 Source: PMRC (July 2005), Report on Regulatory Impacts of UEL and CIL. Needs to be verified and strengthened.

Table 1: Direct Government Costs to Apply Investment Registration System

Cost items	Cost per province (USD)	Total costs for 64 provinces (USD)
Item 1	100.000	6.400.000
Item 2	100.000	6.400.000
Item 3		15.000.000

Un-quantified benefits from a comprehensive business registration system

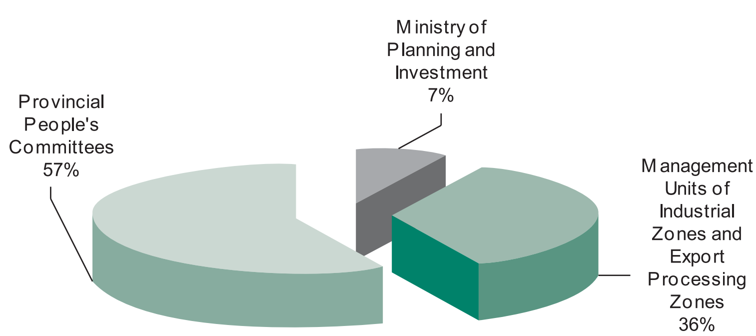
30. A comprehensive national business registration system will help the Government to be well-informed about the enterprise community by number, types, investment capital, their financial status, location, the intensity and allocation of investment by sector and by region, and any major restructuring of enterprises. Such information and data are helpful for the Government to formulate macro economic policies. Moreover, the Government can provide such information as public goods to all potential investors or entrepreneurs who plan to start-up their business, or want to conduct business with other enterprises in the country. This will help them to make the right business and investment decisions, and reduce the cost of market entry.

Estimated cost savings to foreign investors in typical projects

31. FDI projects are classified into three categories and each has different structures of costs spent on obtaining an investment licence as follows:

- Category 1. Large scale projects (exceeding USD 40 million in capital) or with investment in sensitive sectors that require appraisal and approval by MPI or agreement from the Prime Minister. Projects licensed by MPI now account for 7% of total.
- Category 2. Including investment projects in normal manufacturing and service sector under the licensing authority of the provincial people's committee. They account for 57% of total.
- Category 3. Including projects with investment into IZ, EPZ and under the licensing authority of the Board of the Management of the IZ and EPZ. Project of this category currently account for roughly 34% of total.

Figure 1: Percentage of licensed projects by licensing agencies



32. PMRC estimated the reduction in costs incurred by foreign investors in relations to registering (as opposed to licensing) new investments, once the investment registration is introduced. Estimates were based on data and information collected by PMRC, from business test panels, business survey, in-depth interviews, PMRC[9]. These estimates are presented in the following table[10]:

Table 2 - Reduction in costs incurred by foreign investor for each typical project in the scenario that the investment registration system is applied

Unit :USD

Cost Item	Category 1	Category 2	Category 3
Costs which foreign investors have to pay under the existing licensing mechanism			
1Legal consultancy	6,000	3,000	2,000
2Development of feasibility study and application document	10,000	5,000	4,000
3Cost related to travelling, accommodation for staff working on the project	40,000	20,000	15,000
4Paperwork, preparation of papers certifying legal and financial status	500	500	500
5Informal expense (reception, meetings, presentation, etc.)	10,000	5,000	5,000
(A) Total	66,500	33,500	26,500
Costs which foreign investor have to pay under the new investment registration system (est.)			
1Legal consultancy	5,000	2,000	2,000
2Cost related to travelling, accommodation for staff working on the project	10,000	10,000	10,000
3Paperwork, preparation of papers certifying legal and financial status	500	500	500
4Informal expense (reception, meetings, presentation, etc.)	2,000	2,000	2,000
(B) Total	17,500	14,500	14,500
Reduction in costs incurred by foreign investor for each typical project in the scenario that the investment registration system is applied [(A) - (B)]	49,000	19,000	12,000

Source: PMRC (2005) Draft RIA Regulatory Report on UEL and CIL.

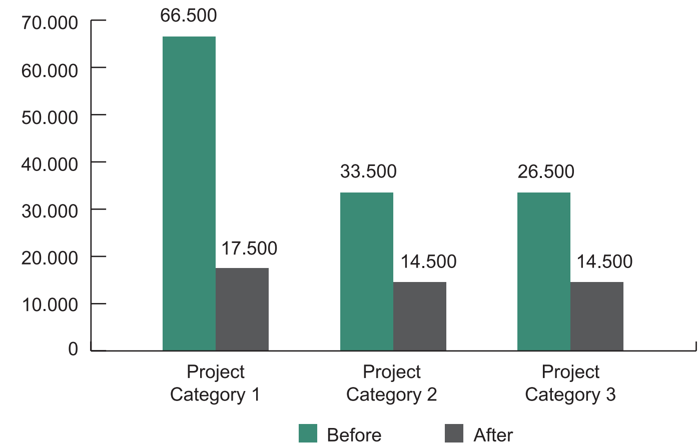
The PMRC analysis found that the major costs incurred by foreign investors in their application for investment license were:

- Preparation of feasibility study: the cost is typically USD 10,000 for large scale projects, and USD 4,000 - 5,000 for projects under the licensing authority of the provincial people's committees or the Management Board of IZ and EPZ.
- Travel costs, accommodation and other costs associated with visits by the investor and/or their staff during the application process. Most of the polled investors disclosed that they had to come to Vietnam many times (from 2 to as many as 20 times) to present and justify the project to different Vietnamese authorities involved in the licensing of their project.
- Informal expenses, including those related to workshop to present the investment project and receptions, etc.

9 PMRC organised business test panels were in Hanoi, Da Nang and HCMC, and conducted a business poll to get the perception of the business community on the impacts of the UEL and CIL. Among 60 questionnaires sent to participants for the business test panels, 37 were completed and returned, of which 17 were from HCMC (46%), 12 from Da Nang (32%) and 8 from Hanoi (22%). Among the respondents, 6 were limited liability companies, 5 were joint stock companies, 1 was a SE, 12 were joint-venture, 2 were 100% FIEs, 9 were "other types" and 2 were classified as other institutions.

10 Some discussants have suggested that the real costs to foreign investors was often much higher, and the real benefits from the proposed reforms could be substantially higher than indicated in this table.

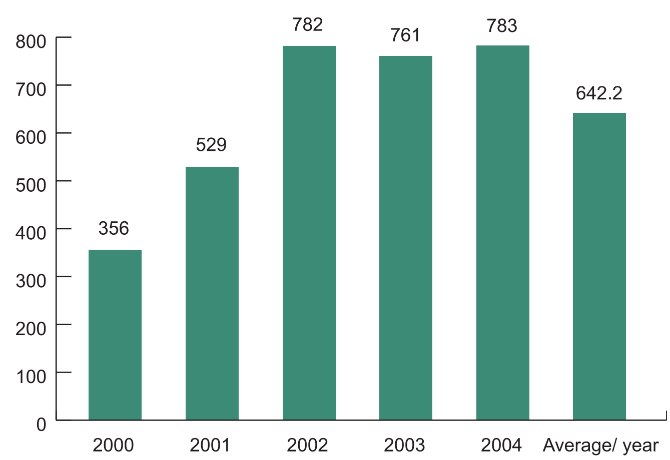
Figure 2: Comparison of Market Entry Costs Before and After the UEL and CIL



Recent developments with FDI approvals and inflows.

33. PMRC data on the number of FDI projects approved from 2000-2004 are presented in the graph below. An average of about 760-800 projects have been approved each year since 2002. Following a gradual recovery from the Asian Financial Crisis, FDI inflows into Vietnam were relatively stable from 2000-2004, ranging from between USD 1.8-2.5 billion/ year.

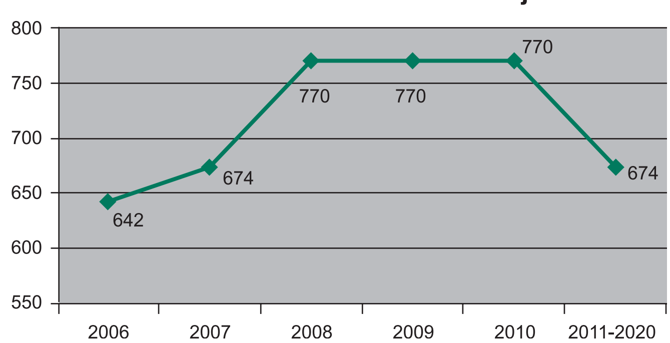
Figure 3: Number of FDI Projects Licensed in 2000 - 2004



Key assumptions with respect to future trends in FDI inflows

34. Number of projects: PMRC reviewed alternative scenarios under the proposed reforms, and after discussions with stakeholders, concluded the most likely scenario was that the number of FDI projects will increase steadily from 2006, reaching 750-800 projects/year in 2007-2010, and then staying at a stable level of 650-700 projects/ year from 2011-2020.

Figure 4 - Forecast on Number of Inflow FDI Projects in 2006 - 2020



35. Composition of FDI project by categories: PMRC assumed that the composition of FDI by project category would remain unchanged in 2006 - 2020. Thus, under the "do nothing" option, 7% of projects would require licensing by MPI; 57% of projects would require licensing by the People's Committees and 36% by Management Board of IZ and EPZ.

36. Reduction in the cost of a new FDI entry: the estimated reduction in entry cost by different project category was shown in the earlier table (Table 2).

37. Using these assumptions, PMRC estimated the total reduction in entry costs for foreign investors is estimated by multiplying unit cost savings for each category, by the expected number of projects in each category. Thus, PMRC estimated that replacing the licensing mechanism with a registration system would save about USD 12-14 million/year as shown in the following table.

Table 3: Estimated total reduction in FDI entry costs

Project Categories	Annual Reduction in Entry Costs (USD)		
	2006	2010	2011-2020
Large-scale projects which should have been under the licensing authority of MPI	2,312,163	2,642,472	2,312,163
Projects which should have been under the licensing authority of provincial People's Committees	6,952,860	8,343,432	7,300,503
Projects which should have been under the licensing authority of Management Boards of IZ and EPZ	2,773,440	3,328,128	2,912,112
Total	**12,038,463**	**14,314,032**	**12,524,778**

Net Benefits of Proposed Changes

38. The change is expected to involve some net (adjustment) costs in the first year, but benefits will outweigh costs from year 2, and will be substantially positive from year 1. Using PMRC data, it is possible to estimate an internal rate of return (IRR) of the proposed change for the period 2006 to 2020. The estimated IRR exceeds 100%.

Sensitivity to Key Assumptions

39. Given the uncertainty concerning some of the estimates used in this analysis, it is useful to test the sensitivity of net benefits to changes in key assumptions. The analysis shows that even with a 50% increase in Government costs, the IRR would still be 78%. A 50% reduction in benefits would reduce the IRR to 44%. That is, the conclusions that the proposed change is in the national interest remains valid, even with much more pessimistic assumptions concerning the expected benefits and costs of the proposed changes.

Table 4: Summary of costs and benefits

Nature of Impact	Impact on	Description
Costs	Government	Major direct costs are borne by the Government in developing new administrative arrangements and developing staff capacity to implement the new arrangements.
	Business	Businesses bear the cost of internal learning about the provisions of the new law.
	Consumers	No costs to consumers.
Immediate Benefits	Government	Once new system is established, the Government will require less staff and related resources for implementation. Qualified staff will be freed to work on other high priority tasks.
	Business	Costs of establishing a new business will be reduced. This will promote increased investment, income and employment. Small business will particularly benefit (because a significant part of the costs saved are fixed costs).
	Consumers	Increased business development will increase options to consumers and help reduce prices.
Other Important Benefits	Government	Less ambiguity and discretion will reduce opportunities for corruption, and increase public confidence in public officials. Increased business activity will generate increased tax revenue.
	Business	Increased business investment and investment returns will have multiplier effects throughout the economy, via increased employment, incomes, and exports, and will accelerate technology transfer and productivity growth. The proposed changes will also send a signal to potential investors (and to officials implementing Government policy) that the Government is serious about making it easier for investors to invest in Viet Nam. Reducing business start-up costs will increase the viability of smaller investment projects (such as agro-processing) which are more likely to be located outside the main urban centres.
	Consumers	The multiplier effects through the economy will further reduce prices, stimulate quality improvements (e.g. via technology transfer), and increase consumer choice).
Conclusion	Net benefits to the economy are substantial. The net impact is expected to be positive for the three categories of stakeholders. The proposed change is in the national interest.	

Compliance, enforcement and monitoring

Compliance and enforcement

40. There are three key elements to the proposed change that should ensure increased compliance:

- Firstly, the cost of compliance for businesses will be greatly reduced. That is, the disincentives to complying will be greatly reduced.
- Second, scarce Government resources will be freed up from unproductive work appraising private investment decisions, to concentrate more on monitoring to ensure that investors are complying with the law.
- Third, a more open, and publicly accessible, national business registration system will increase transparency and make it harder to conceal non-compliance.

41. Given the above factors, existing compliance levels should be expected to be sustained under the proposed reforms without additional resources. However, developing an improved and more readily accessible (in both Vietnamese and English) national business registration system, and training key staff in all provinces on implementation, could help to substantially improve compliance. Management systems and registration officials need to be geared towards facilitating "hassle free" registration of enterprises and public access to business registration data.

42. A public awareness campaign to increase the awareness of the business media, business associations, businesses and the general public about their rights and responsibilities under the new regulations could also assist in increasing compliance.

Enforcement and sanctions

43. Given compliance will be easier, enforcement should be easier under the proposed reforms. While enforcement of previous regulations was generally successful at the initial approval stage, the more substantive problem was in ensuring regular updating of business registration information, and ongoing compliance with business laws.

44. Ongoing studies of enforcement of business registration under the 2000 Enterprise Law should provide lessons on approaches to improving enforcement. One strategy should be to make business registration data more publicly available, and to establish clear and easy procedures for the public to raise concerns about the accuracy of any business registration data. The business registration agency should work with the business media and business association to increase social pressure for compliance.

Implementation

45. The business registration departments of the Ministry of Planning and Investment, at both the central and provincial levels, should be responsible for implementing the reforms. The provincial foreign investment offices will need to be restructured to focus on promotion and compliance monitoring, and to withdraw from any involvement in approving foreign investments. The changed duties, responsibilities, and obligations of these departments should be clearly documented and explained to all staff prior to enactment of the reforms. Staff training programs will need to be provided during first two years of implementation of the new legislation.

46. The MPI will also need to work with VCCI, other business organizations and the business mediate to disseminate information to key stakeholders and the general public about the new regulations and mechanisms for ensuring compliance with the new provisions. A clear, time-bound communications strategy should be issued by MPI by November 2005. Every effort should be made to encourage domestic and foreign business associations, and the business media, to assist in raising awareness of the new procedures.

Monitoring

47. The comprehensive national business registration system to be developed under the new reforms will provide an important mechanism for monitoring trends in registration of new investments. MPI will also continue to formally meet with foreign and domestic investors twice/year, as well as more frequent informal meetings as appropriate. Such meetings can provide important feedback on any problems with implementation.

48. MPI will prepare a twice yearly report to the Government on progress and issues involved with implementing the new reforms. The Government will inform the National Assembly of any major issues or problems arising during implementation.

Summary and recommendation

Summary and recommendation

49. The proposed reforms generate considerable economic benefits to foreign investors, with additional benefits to domestic businesses, workers and consumers. There will be some incremental adjustment costs to the Government in developing new systems, and training staff, to implement the reforms, but the net benefits to society are positive with the Internal Rate of Return conservatively estimated to be in excess of 100%. The IRR remains positive with significantly higher costs, and greatly reduced benefits.

50. Given the substantial benefits, "doing nothing" is not a desirable option. Another option of removing all licensing and registration requirements would make it difficult to monitor FDI inflows and difficult for creditors and investors to obtain basic information about business firms. This would not be consistent with best practices in corporate governance, and would be politically unacceptable.

51. The proposed shift from licensing to registration of FDI should be approved and implemented as soon as possible. Special attention should be given to enforcement, and monitoring implementation of the new policies. Every effort should be made to develop an effective national business registration system to facilitate implementation and monitoring.

PMRC
PRIME MINISTER'S RESEARCH COMMISSION

Prime Minister's Research Commission
8, Le Hong Phong, Hanoi
Tel. (84-4) 080-48833
Fax. (84-4) 8237477
Emai: pmrc@hn.vnn.vn

UNDP
Viet Nam

United Nations Development Programme - Vietnam
25-29, Phan Boi Chau, Hanoi, Vietnam
Tel. (84-4) 942 1495
Fax. (84-4) 942 2267
Emai: registry.vn@undp.org
Website : www.undp.org.vn

gtz
Federal Ministry
for Economic Cooperation
and Development

GTZ Office Hanoi
6th Floor, Hanoi Towers, 49 Hai Ba Trung St.
Hanoi / SR Vietnam
Tel: 84-4) 934 4951
Fax: (84-4) 934 4950
E-Mail: gtz-vietnam@gtz.de
office.sme@gtz-vietnam.com.vn
Website: www.gtz.de/vietnam
www.sme-gtz.org.vn

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